

Federal Deposit Insurance Corporation

§ 349.9

(e)(1) of this section if the following requirements are met:

(i) The FDIC-supervised insured depository institution placing and directing the allocation of an order eligible for post-execution allocation has been granted written investment discretion with regard to participating customer accounts and makes the following information available to retail forex customers upon request:

(A) The general nature of the post-execution allocation methodology the FDIC-supervised insured depository institution will use;

(B) Whether the FDIC-supervised insured depository institution has any interest in accounts which may be included with customer accounts in bunched orders eligible for post-execution allocation; and

(C) Summary or composite data sufficient for that customer to compare its results with those of other comparable customers and, if applicable, any account in which the FDIC-supervised insured depository institution has an interest.

(ii) Post-execution allocations are made as soon as practicable after the entire transaction is executed;

(iii) Post-execution allocations are fair and equitable, with no account or group of accounts receiving consistently favorable or unfavorable treatment; and

(iv) The post-execution allocation methodology is sufficiently objective and specific to permit the FDIC to verify the fairness of the allocations using that methodology.

(f) *Record of monthly statements and confirmations.* An FDIC-supervised insured depository institution shall retain a copy of each monthly statement and confirmation required by section 349.10.

(g) *Manner of maintenance.* The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information. Record maintenance may include the use of automated or electronic records provided that the records are easily retrievable, readily available for inspection, and capable of being reproduced in hard copy.

(h) *Length of maintenance.* An FDIC-supervised insured depository institution shall keep each record required by this section for at least five years from the date the record is created.

§ 349.8 Capital requirements.

An FDIC-supervised insured depository institution offering or entering into retail forex transactions must be well capitalized as defined by 12 CFR part 325 or 12 CFR part 324, as applicable, unless specifically exempted by the FDIC in writing.

[78 FR 55595, Sept. 10, 2013]

§ 349.9 Margin requirements.

(a) *Margin required.* An FDIC-supervised insured depository institution engaging, or offering to engage, in retail forex transactions must collect from each retail forex customer an amount of margin not less than:

(1) Two percent of the notional value of the retail forex transaction for major currency pairs and 5 percent of the notional value of the retail forex transaction for all other currency pairs;

(2) For short options, 2 percent for major currency pairs and 5 percent for all other currency pairs of the notional value of the retail forex transaction, plus the premium received by the retail forex customer; or

(3) For long options, the full premium charged and received by the FDIC-supervised insured depository institution.

(b)(1) *Form of margin.* Margin collected under paragraph (a) of this section or pledged by a retail forex customer for retail forex transactions in excess of the requirements of paragraph (a) of this section must be in the form of cash or the following financial instruments:

(i) Obligations of the United States and obligations fully guaranteed as to principal and interest by the United States;

(ii) General obligations of any State or of any political subdivision thereof;

(iii) General obligations issued or guaranteed by any enterprise, as defined in 12 U.S.C. 4502(10);

(iv) Certificates of deposit issued by an insured depository institution, as